

WQ-16J

Peter Fasbender, Field Supervisor
U.S. Fish and Wildlife Service
2661 Scott Tower Drive
New Franken, Wisconsin 54229

Dear Mr. Fasbender:

On July 21, 2011, the Bad River Band of the Lake Superior Tribe of Chippewa Indians (the "Band") submitted water quality standards to the U.S. Environmental Protection Agency for formal approval under section 303 of the Clean Water Act (CWA). Section 7(a)(2) of the Endangered Species Act (ESA) requires that EPA consult with the U.S. Fish and Wildlife Service (FWS) to ensure that our action on the Band's standards will not likely jeopardize the continued existence of federally-listed species, or result in the destruction or adverse modification of their designated critical habitat. This letter serves to document our intent to approve the Band's standards, and to request your written concurrence on the biological evaluation enclosed with this letter.

Beginning in late July 2011 my staff discussed the upcoming EPA action on the Band's standards and coordinated with Joel Trick, field biologist at your office, to determine the endangered, threatened, and candidate species potentially present within the action area. Also, consistent with the 2001 Memorandum of Agreement (MOA) between EPA and FWS, we provided Joel with an advance copy of the Band's proposed water quality standards. No ESA issues of concern were identified.

For the three federally-listed species in the action area where these standards are applicable, I have determined that EPA approval of the proposed tribal water quality standards has *no effect* on Gray Wolf and Canada Lynx, is *not likely to adversely affect* Piping Plover, and will not result in the destruction or adverse modification of Piping Plover designated critical habitat.

The Band's standards will meet or exceed the applicable requirements under the CWA and the federal regulations for a water quality standards program; therefore we expect to formally approve the standards within our 60-day regulatory timeline. We are providing you with the following documents: (1) The final version of the Band's standards, (2) our biological evaluation and (3) a map showing where the Band's standards are applicable.

Consistent with the February 22, 2001, MOA between the EPA, FWS and National Marine Fisheries Service Regarding Enhanced Coordination under the CWA and the ESA, a determination of “*not likely to adversely affect*” requires a written biological evaluation, and concurrence from the FWS. We are requesting your concurrence on the biological evaluation within 20 days upon receipt of this letter.

If you have any further comments or concerns, please contact me at (312) 886-6758, or via email at holst.linda@epa.gov.

Sincerely yours,

Linda Holst, Chief
Water Quality Branch

Enclosures

cc: Ervin Soulier, Bad River Environmental Director
Naomi Tillison, Bad River Water Quality Specialist
Joel Trick, FWS Green Bay Field Office

bcc: Kathleen Mayo, WQB
Robie Anson, WQB
John Colletti, NPDESB